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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FRANCISCO MAYA,
Plaintiff,

v.

PCI CONSTRUCTION, INC., HAMID
ADLPARVAR
Defendants.

Case No 07-060407 JW/RS

PLAINTIFF'S CASE MANAGEMENT
STATEMENT AND PROPOSED
ORDER
DATE APRIL 21, 2008
TIME 10:00 am
Courtroom 8

The plaintiff to the above-entitled action jointly submit this Case Management Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this case.

DESCRIPTION OF THE CASE

1. A brief description of the events underlying the action:

This is a simple wage and hour case. The Plaintiff a construction worker claims he worked unpaid overtime. The defendants claim they paid him all overtime he is owed.

2. The principal factual issues which the parties dispute:

Plaintiff submits this Case Management Statement in response to the Defendants', .

There must have been a miscommunication. Plaintiff's counsel was surprised by Defendant's claim that they had tried and failed to speak to Plaintiff's attorney

1 concerning the Case Management Conference. In same discussions in which Palintiff's
2 counsel agreed to use a magistrate judge for an early settlement conference and to submit
3 disclosures a after that conference, we also discussed filing a Joint Case Management
4 Conference Statement.

5 Even though I am in Mexico for a few days, I continue to work and check my e-
6 mails. I would be happy to submit a joint case management conference with defendants and
7 correct any misunderstanding. I am always available by e-mail and can make myself available
8 by phone.

9 Be that as it may, this is a simple wage and hour case. Plaintiff has documents which
10 show he was working overtime. The defendants claim they have time cards. The Plaintiff has
11 requested copies of any time cards before the settlement conference.

12
13 3. The principal legal issues which the parties dispute:

14 Defendants raise the issue of individual liability of Hamid Adlparvar. The FSLA allows
15 for individual liability in overtime cases (as an **alternative** to piercing the corporate veil).
16 Plaintiff's counsel respectfully suggests defendants carefully examine the FSLA before filing a
17 12(b)(6) motion on that issue.

18 4. The other factual issues [e.g. service of process, personal jurisdiction, subject matter
19 jurisdiction or venue] which remain unresolved for the reason state below and how the parties
20 propose to resolve those issues: None that the plaintiff is aware of.

21 5. The parties which have not been served and the reasons: Does 1-10 have not been
22 served. They are not identified.

23 6. The additional parties which the below-specified parties intend to join and the
24 intended time frame for such joinder: None at the moment.

25 7. The following parties consent to assignment of this case to a United States Magistrate
26 Judge for trial: Plaintiff agrees to a magistrate judge.

ALTERNATIVE DISPUTE RESOLUTION

8. The parties have filed a Stipulation and Proposed Order Selection ADR process: Plaintiff and Defendant have agreed to an early settlement conference. Plaintiff agreed to this after being pressed by Defendant.

9. Indicate any other information regarding ADR process or deadline:
None

DISCLOSURES

10. The parties certify that they have made the following disclosures: Plaintiff and Defendant have agreed to an early settlement conference. Plaintiff and Defendant agreed to exchange disclosures after the Settlement Conference.

DISCOVERY

11. The Plaintiff suggested to the defendants the following discovery plan: All written discovery per code. Three to four depositions per party extended to ten hours a piece because they will required an interpreter.

MOTIONS, DISCOVERY CUT-OFF AND TRIAL DATE

The Plaintiff suggests the following schedule:

Plaintiff's counsel respectfully requests that the discovery cutoff occur in September 15, 2008. The Last day for dispositive motions October 20, 2008. Plaintiff's counsel sees no need for experts. Plaintiff expects the trial would last 3 to 4 days. Plaintiff requests a trial date of November 9, 2008.

Dated: _____
s/jdb

James Dal Bon,
Attorney for Plaintiff

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

In addition the Court Orders: _____

Dated: _____

HONORABLE JAMES WARE
United States District Court Judge